

MASTER OUTSOURCING AGREEMENT

SCHEDULE 13.1

SERVICE LEVEL METHODOLOGY

ARTICLE 1 DEFINITIONS.

1.01 All capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed thereto in the Master Agreement. The following terms, when used in this Schedule 13.1 or any Attachment hereto shall have the meanings specified below:

“**Adjusted Monthly Charges**” shall mean the Monthly Base Charges for Services for the applicable month as calculated pursuant to the relevant Service Schedule and which exclude pass-through charges or reimbursable expenses.

“**Allocation of Pool Percentage**” shall mean the portion of the Pool Percentage Available for Allocation that is specified for a Performance Category. The total of all Allocation of Pool Percentages shall not exceed the Pool Percentage Available for Allocation.

“**At Risk Amount**” shall mean with respect to the Services on a specific Service Schedule, for any month during the Term, the maximum dollar amount specified on a Service Schedule, or the maximum dollar amount determined by calculation as set forth on the such Service Schedule of the monthly charges for the applicable Services, as further described in Article 7 of this Schedule 13.1, for which the Vendor is at risk to give in total credits in any one month to the City with respect to the failure by Vendor to meet its Service Level and Deliverable obligations set forth on such Service Schedule.

“**Cutover Date**” means, with respect to each Service Schedule, the applicable Cutover Date to Vendor for the performance of Services following the Transition Commencement Date.

“**Critical Deliverables**” shall mean a Deliverable that is designated as a “Critical Deliverable” in a Service Level Matrix and for which a Deliverable Credit is available.

“**Critical Service Levels**” shall mean a Service Level which is designated as “Critical” by City in a Service Level Matrix and for which a Service Level Credit is available.

“**Deliverable Credits**” shall have the meaning set forth in Section 13.01 below.

“**Earnback Credit**” shall have the meaning given in Section 8.02.

“**Expected Service Level**” shall mean the desired level of performance for a Critical Service Level or Key Performance Indicator, as set forth in a Service Level Matrix.

“**Expected Service Level Default**” shall have the meaning given in Section 6.01.

“**Key Performance Indicators**” shall mean those Service Levels for which no Service Level Credit is payable, but which are nonetheless meaningful to the City’s recycling operations and activities.

“**Master Agreement**” shall mean the Master Outsourcing Agreement, dated _____ by and between Vendor and City.

“**Measurement Window**” shall mean the time during, or frequency by, which a Service Level shall be measured. The Measurement Window shall be a calendar month, unless otherwise noted herein or agreed by the Parties.

“**Minimum Service Level Default**” shall have the meaning given in Section 6.01.

“**Minimum Service Level(s)**” shall mean the minimum level of performance for a Critical Service Level or Key Performance Indicator, as set forth in a Service Level Matrix.

“**Performance Categories**” shall mean a category of the Services for which the Vendor is expected to meet Service Levels described in applicable Service Level Matrices.

“**Pool Percentage Available for Allocation**” shall mean the total amount that may be allocated for Service Level Credits among the Critical Service Levels. The Pool Percentage Available for Allocation shall be percentage indicated on the relevant Service Schedule of the At Risk Amount relevant for the Services specified on such Service Schedule.

“**Service Level Credit Allocation Percentage**” shall mean, for a particular Critical Service Level, the portion of the applicable Allocation of Pool Percentage allocated to a Critical Service Level within a Performance Category and used to calculate the Service Level Credit payable to City in the event of a Service Level Default in such Critical Service Level. In no event shall the sum of all Service Level Credit Allocation Percentages in any Performance Category exceed one hundred percent (100%), nor shall a single Service Level be allocated an amount which would be in excess of xx percent (xx%) of the At-Risk Amount.

“**Service Level Default**” shall mean a Minimum Service Level Default or an Expected Service Level Default.

“**Service Level Matrix**” shall mean that portion of the relevant Service Schedule setting forth all Critical Deliverables, Critical Service Levels, and Key Performance Indicators for the Services governed by such Service Schedule, together with an Allocation of Pool Percentage or Deliverable Credit for each such item as designated by the City in accordance with this Schedule 13.1.

ARTICLE 2 GENERAL.

2.01 As of the Cutover Date (or as otherwise specified in the applicable Service Schedule), Vendor will perform the Services at or above the Service Levels described in such Service Schedule.

2.02 New Performance Categories, Critical Service Levels and Key Performance Indicators may be added or substituted by City as specified in this Schedule 13.1, at the Reset Dates specified in the relevant Service Schedule in order to achieve a fair, accurate and consistent measurement of the Vendor's performance of the Services. Any dispute as to the City's designation of new or substitute Performance Categories, Critical Service Levels and Key Performance Indicators will be resolved through the Benchmarking Process.

ARTICLE 3 SERVICE LEVEL MATRIX.

3.01 Service Level Matrix. Each Service Schedule shall include a Service Level Matrix, setting forth the quantitative measurements associated with Critical Service Levels, Key Performance Indicators, and Critical Deliverables. The Vendor shall perform the Services at or above the levels of performance indicated in each such Service Level Matrix. For example, the Service Level Matrix for Exhibit A, SFR Recyclable Materials Processing is set forth as Section 11 (Service Levels) of that Exhibit A. All Service Level Matrices are incorporated into the Master Agreement by inclusion in a Service Schedule.

ARTICLE 4 REPORTING.

4.01 Unless otherwise specified in this Schedule 13.1, each Critical Service Level and Key Performance Indicator shall be measured on a monthly basis. The Vendor shall provide to City, as part of the Vendor's monthly performance reports, a set of hard- and soft-copy reports to verify the Vendor's performance and compliance with the Critical Service Levels, Key Performance Indicators, and Critical Deliverables (but once all Critical Deliverables are received and accepted by City, then the monthly performance reports need only address Critical Service Levels and Key Performance Indicators).

4.02 The Vendor shall provide detailed supporting information for each report to City in machine-readable form suitable for use on a personal computer. The data and detailed supporting information shall be City Confidential Information, and will be provided to City [online through Vendor's portal] at any time during the Term.

4.03 Real-Time or Near-Time Dashboard. Each Transition Plan shall also provide for the eventual reporting of all Service Levels and Key Performance Indicators via a dashboard available on-line or by electronic transmission that is updated on a real-time or near real-time basis so that the Parties can monitor performance on a continuous basis, to the extent that the metric involved is susceptible to such measurement.

ARTICLE 5 NOTICE REQUIREMENTS FOR ADDITIONS, DELETIONS AND MODIFICATIONS.

5.01 City will send written notice to the Vendor at least ninety (90) days prior to the date that additions or deletions to Performance Categories, or additions or deletions to Service Levels (which include the movement of Critical Service Levels to Key Performance

Indicators and Key Performance Indicators to Critical Service Levels), or modifications to Service Level Credit Allocation Percentages for any Critical Service Levels are to be effective, provided that City may send only one such notice (which notice may contain multiple changes) each calendar quarter.

ARTICLE 6 SERVICE LEVEL DEFAULTS.

6.01 Service Level Defaults can occur in two ways:

(1) An “*Expected Service Level Default*” will occur if the Vendor's level of performance for a particular Service Level fails to meet the applicable Expected Service Level, and has failed to meet such Expected Service Level for four (4) or more months in any rolling twelve (12) month period.

(2) A “*Minimum Service Level Default*” shall occur when the Vendor's level of performance for a particular Service Level fails to meet the applicable Minimum Service Level at any time.

ARTICLE 7 SERVICE LEVEL CREDITS.

7.01 In the event of a Service Level Default, the Vendor shall provide City Service Level Credits as defined below:

(1) Each Service Level Matrix sets forth the information required to calculate the Service Level Credit that Vendor will pay to City (or apply against monthly charges) in the event of a Service Level Default. For each Service Level Default, the Vendor shall pay to City, subject to Article 8 below, a Service Level Credit that will be computed in accordance with the following formula:

$$\text{Service Level Credit} = A \times B \times C$$

Where:

A = The Allocation of the Pool Percentage specified for the Performance Category in which the Service Level Default occurred as shown in each Service Level Matrix.

B = The Service Level Credit Allocation Percentage for which the Service Level Default occurred as shown in each Service Level Matrix.

C = At Risk Amount

(2) For example, assume that the Vendor fails to meet the Minimum Service Level for a Critical Service Level, the Vendor's charges for the month in which the Service Level Default occurred were \$100,000 and that the At Risk Amount was twenty-five percent (25%) of these Charges.

(3) Additionally, assume that the Allocation of Pool Percentage for the Performance Category of such Critical Service Level is xx% and that its Service Level Credit Allocation Percentage is xx percent (xx%). The Service Level Credit due to City for such Service Level Default would be computed as follows:

A = xx% (the Allocation of Pool Percentage) multiplied by

B = xx% (the Service Level Credit Allocation Percentage) multiplied by

C = \$xx (xx percent (xx%) of \$xx, Vendor's charges for the month during which the Service Level Default occurred).

= \$xx (the amount of the Service Level Credit)

(4) If more than one Service Level Default has occurred in a single month, the sum of the corresponding Service Level Credits shall be credited to City.

(5) In no event shall the amount of Service Level Credits credited to City with respect to all Service Level Defaults occurring in a single month exceed, in total, the At Risk Amount.

(6) The Vendor shall notify City in writing if City becomes entitled to a Service Level Credit, which notice shall be included in the standard monthly reporting for Critical Service Levels and Key Performance Indicators as described in Article 5. The monthly reports shall also describe any failure to meet Key Performance Indicators for the month.

(7) The total amount of Service Level Credits that the Vendor will be obligated to pay to City, with respect to Service Level Defaults occurring each month, shall be calculated monthly based on the Adjusted Monthly Charges for the month during which the Service Level Default(s) giving rise to such credit(s) occurred; provided, that Service Level Credits shall not be applied until the end of the applicable Contract Year, whereby all Service Level Credits for the applicable Contract Year shall be reconciled with any Earnback Credits which have accrued pursuant to Article 8 for that Contract Year, and, to the extent the Service Level Credits exceed the Earnback Credits, City may elect to apply such Service Level Credits to the next Contract Year or request a refund from Vendor.

(8) The Vendor acknowledges and agrees that the Service Level Credits shall not be deemed or construed to be liquidated damages or a sole and exclusive remedy or in derogation of any other rights and remedies City has hereunder or under the Master Agreement.

(9) Subject to Article 13 below, if a Minimum Service Level Default recurs in three or more consecutive Measurement Windows ("**Recurring Minimum Service Level Default**"), the amount of the applicable Service Level Credit payable to the City shall be doubled for such third and subsequent Measurement Windows. For the avoidance of doubt, the Service Level Credit shall only be doubled one time but such doubled amount shall be payable for all

successive consecutive Service Level Defaults of the subject Minimum Service Level, and such doubled amount shall not be subject to Earnback.

ARTICLE 8 EARNBACK.

8.01 Within fifteen (15) days after the end of each Contract Year, Vendor shall provide a report to the City that will include, with respect to each Critical Service Level for which there was a Service Level Default during the preceding Contract Year, the following:

(1) statistics on Vendor's weighted monthly performance in that Critical Service Level during the preceding Contract Year ("*Yearly Weighted Performance Average*"). The Yearly Weighted Performance Average will be calculated as a single yearly result computed from each month's performance by multiplying the number of observations by the actual performance percentage for each month. The monthly results will be added and divided by the number of months where an actual performance was recorded; and

(2) the total amount of Service Level Credits imposed for Service Level Defaults in that Critical Service Level.

8.02 If, during the preceding Contract Year, Vendor achieved a Yearly Weighted Performance Average in a Critical Service Level that was equal to or greater than the Expected Service Level in effect for that Critical Service Level for that Contract Year, Vendor will be entitled to receive an earnback credit ("*Earnback Credit*") equal to all Service Level Credits assessed for that Contract Year for Service Level Defaults in that Critical Service Level. In no event will: (1) the total amount of Earnback Credits for any Contract Year exceed the total amount of Service Level Credits assessed for Service Level Defaults in that Critical Service Level for that Contract Year; or (2) any Earnback Credit carry forward to subsequent Contract Years or back to previous Contract Years. If, during the preceding Contract Year, City deletes a Critical Service Level or demotes a Critical Service Level to a Key Performance Indicator, Supplier shall Earnback all Service Level Credits that have been assessed during the preceding Contract Year for Service Level Defaults in that Critical Service Level.

8.03 The provisions of this Article 8 shall only affect Vendor's obligation to pay Service Level Credits to City and shall have no effect on City's right to terminate the Master Agreement or any other rights or remedies City may have.

ARTICLE 9 ADDITIONS AND DELETIONS OF PERFORMANCE CATEGORIES.

9.01 The City may add or delete Performance Categories by sending written notice as described in Article 5. Such change notice shall include changes necessary to accommodate the addition of new Performance Categories made pursuant to Article 2. In no event may (1) the sum of the Allocations of Pool Percentage for all the Performance Categories exceed the Pool Percentage Available for Allocation, or (2) the sum of the Service Level Credit

Allocation Percentages for all Critical Service Levels within a Performance Category exceed one hundred percent (100%).

ARTICLE 10 ADDITIONS AND DELETIONS OF SERVICE LEVELS.

10.01 The City may add, delete or modify Critical Service Levels or Key Performance Indicators as set forth in this Article 10 by sending written notice in accordance with Article 5.

10.02 The City may add Service Levels in accordance with this Section and by providing written notice in accordance with Article 5. Expected Service Level and Minimum Service Level commitments associated with added Service Levels will be computed as follows:

(1) Where at least six (6) consecutive months of the Vendor-provided service measurements exist for a particular Service that is being provided by the Vendor, the Parties agree that the Expected Service Level shall be defined as the average of such service measurements for the six month measurement period and that the Minimum Service Level shall be defined as the lower of: (a) the lowest service measurement achieved during the six month measurement period; or (b) 95% of the established Expected Service Level;

(2) Where no service measurements exist for a particular Service that is being provided by the Vendor, the Parties shall attempt in good faith to agree on an Expected Service Level and a Minimum Service Level commitment using industry standard measures or third party advisory services; or

(3) Where less than six (6) months or no measurements exist for a particular Service that is being provided by the Vendor, and the Parties fail to agree on an Expected Service Level and Minimum Service Level commitment as described in Section 10.02(2)(2) above, the Parties shall do the following:

(a) The Vendor shall begin providing monthly measurements within sixty (60) days after the Vendor's receipt of the City's written request and subject to mutual agreement on such measurements.

(b) After six (6) or more actual service level attainments have been measured (or should have been measured per Section 10.02(3)(a) above and if not so measured; constructed as described in Section 10.02(3)(b)(b) below), the City may at any time in writing request that Section 10.02(1) above be used to establish the Expected Service Level and Minimum Service Level commitments. If the Vendor is responsible for measuring actual service level attainments for six (6) consecutive months and fails to provide one (1) or more measurements during the six month measurement period such that six (6) consecutive measurements are not available, the missing measurement(s) shall be constructed according to the following: (i) if one measurement is missing, the missing measurement shall be constructed by using the highest of the available actual measurements, or (ii) if two (2) or more

measurements are missing, the first missing measurement shall be constructed by using the highest of the actual measurements and adding to that measurement twenty percent (20%) of the difference between that measurement and perfect performance and each of the remaining missing measurements shall be constructed by using the highest of the actual measurements and adding to that measurement thirty five percent (35%) of the difference between that measurement and perfect performance.

10.03 City may delete Critical Service Levels or Key Performance Indicators by sending written notice in accordance with Article 5.

ARTICLE 11 IMPACT OF ADDITIONS AND DELETIONS OF CRITICAL SERVICE LEVELS ON SERVICE LEVEL CREDIT ALLOCATION PERCENTAGES.

11.01 When adding or deleting a Critical Service Level, the City shall modify the Service Level Credit Allocation Percentages for the Critical Service Levels within the Performance Category such that the total Service Level Credit Allocation Percentages for all Critical Service Levels within the Performance Category equals one hundred percent (100%).

11.02 If the City adds a Critical Service Level in accordance with Section 10.02 above, but does not modify the Service Level Credit Allocation Percentages for the other Critical Service Levels within the applicable Performance Category under this Section 11.02, then, until such time as the City so modifies such Service Level Credit Allocation Percentages, the Service Level Credit Allocation Percentage for such added Critical Service Level shall be zero.

ARTICLE 12 MODIFICATIONS OF ALLOCATION OF POOL PERCENTAGES FOR ANY PERFORMANCE CATEGORIES OR SERVICE LEVEL CREDIT ALLOCATION PERCENTAGES FOR ANY CRITICAL SERVICE LEVELS.

12.01 The City may modify the Allocation of Pool Percentages for any Performance Categories or Service Level Credit Allocation Percentages for any Critical Service Levels within a Performance Category by sending written notice in accordance with Article 5. The City shall modify (1) the Allocations of Pool Percentage for two or more Performance Categories such that the sum of the Allocations of Pool Percentage for all Performance Categories does not exceed the Pool Percentage Available for Allocation, and (2) the Service Level Credit Allocation Percentages for two or more of the Critical Service Levels within the Performance Category such that the sum of the Service Level Credit Allocation Percentages for all Critical Service Levels within the Performance Category equals one hundred percent (100%).

ARTICLE 13 CRITICAL DELIVERABLES .

13.01 Certain of the Vendor’s obligations under the Master Agreement or any Service Schedule are one-time or periodic obligations to deliver Critical Deliverables (for example, the Transition Plan). Each Service Level Matrix may set forth the credits that shall be payable by the Vendor to the City in the event the Vendor fails to deliver any of the Critical

Deliverables within the time period specified (“*Deliverable Credits*”). The Deliverable Credits imposed for failure(s) to meet Critical Deliverables shall not be included in the calculation related to the At Risk Amount. The Deliverable Credits for Critical Deliverable failures shall be reflected on the monthly invoice containing charges for the month in which the Critical Deliverable failure occurred (for example, the amount of Deliverable Credits payable for Critical Deliverable(s) failures in August shall be set forth in the Monthly Invoice for August Charges issued in September). Unlike Service Level Credits, Deliverable Credits will not be subject to Earnback.

ARTICLE 14 COMMENCEMENT OF OBLIGATIONS.

14.01 Vendor shall begin measuring its performance against the Service Levels on the applicable Cutover Date, or as mutually agreed and set forth in the Service Level Matrix.

14.02 Existing Services Levels. Subject to the City providing Vendor with accurate and verifiable measurements for a particular Services and the measurement data demonstrating that the City was consistently achieving such Service Level for six (6) months immediately prior to the applicable Cutover Date, Vendor will, as of the applicable Cutover Date, begin measuring and reporting such Existing Service Level including assessing Service Level Credits, if applicable, using the same or reasonably comparable tools and methodologies utilized by the City prior to the applicable Cutover Date. If no such measurements exist, the Service Level will be established in accordance with Section 10.02 above.

14.03 Vendor shall be subject to the imposition of the applicable Service Level Credits beginning on the applicable Cutover Date or the date in the Service Level Matrix.

ARTICLE 15 COOPERATION.

15.01 The achievement of the Service Levels by the Vendor may require the coordinated, collaborative effort of the Vendor with other the City third party contractors. The Vendor will provide a single point of contact for the prompt resolution of all Service Level Defaults and all failures to provide high quality Services to the City, regardless of whether the reason for such Service Level Defaults, or failure to provide high quality Services to City, was caused by City third party contractors.

15.02 Excused Performance. Vendor will be relieved of responsibility for meeting the applicable Service Level(s) and any associated Service Level Credits if and to the extent Vendor’s failure to meet such Service Level(s) is due to:

(a) Problems resulting from components and facilities of the City or third parties for which City is operationally responsible;

(b) The City’s reprioritization of tasks to be performed by Vendor where Vendor has provided the City with reasonable advance notice that such reprioritization

will cause Vendor to miss such Service Level and the City authorizes Vendor to proceed with the applicable tasks; or

(c) Circumstances that excuse performance in connection with a Force Majeure event as specified in Section 26 of the Master Agreement

ARTICLE 16 CONTINUOUS IMPROVEMENT – SERVICE LEVELS.

16.01 The Parties agree to the concept of continuous improvement and that the Critical Service Levels and Key Performance Indicators should be modified during the term of the Master Agreement to reflect this concept. To accomplish this, Critical Service Levels and Key Performance Indicators will be modified at the end of each twelve (12) month period following the Cutover Date, as described below:

(1) Each Expected Service Level will be reset to the average of the four highest monthly actual results (for example, 99.6% is higher than 99.4%) at or above the Expected Service Levels achieved during the preceding twelve months; provided that, if fewer than four monthly actual results exceeded the Expected Service Level, the Expected Service Level will be reset by taking the four (4) highest monthly actual results, replacing each such actual result that is below the Expected Service Level with the Expected Service Level, and dividing the sum of the resulting four (4) numbers by four (4).

For example, if the Expected Service Level being adjusted were 99.6%, and there were three actual results that were higher and none equal (e.g., 99.9%, 99.8%, and 99.7%), the calculation would be $((99.9\% + 99.8\% + 99.7\% + 99.6\%) / 4) = 99.75\%$ with the subsequent reset governed by Section 16.01(2), below.

(2) Notwithstanding Section 16.01(1) above, in no event shall any single increase in an Expected Service Level pursuant to Section 16.01(1) above exceed ten percent (10%) of the difference between perfect performance and the then-current Expected Service Level.

For example, if the Expected Service Level being adjusted were 99.6%, the maximum increase for that reset would be 0.04% (i.e. from 99.6% to 99.64%).

(3) Each Minimum Service Level will be reset by adding to the Minimum Service Level being adjusted a sum equal to five percent (5%) of the difference between perfect performance and the then-current Minimum Service Level.

For example, if the Minimum Service Level being adjusted were 99.4%, the increase would be 0.03% (i.e., from 99.4% to 99.43%).

(4) Vendor may reasonably request that the improvement obligations set forth in this Article 16 shall not apply to specified Service Levels and the Parties shall negotiate in good faith to determine whether such improvement obligations shall apply.

Notwithstanding the foregoing, the Service Level shall be adjusted upward if, and to the extent, the Parties agree to an adjustment to the Charges for such additional labor resources and/or other service delivery costs reasonably required to meet such higher levels.

ARTICLE 17 IMPROVEMENT PLAN.

17.01 A written improvement plan, including root cause analysis, shall be performed by Vendor whenever the Minimum Service Level for a Critical Service Level or Key Performance Indicator has not been met or a Critical Service has not been met. Vendor shall provide the improvement plan within thirty (30) days of such performance failure, which plan shall be subject to the City's approval. The Vendor shall promptly implement such plan once it has been approved by the City.

ARTICLE 18 MEASURING TOOLS.

18.01 As of the Cutover Date, the measuring tools and methodologies set forth in each Service Level Matrix represent acceptable measuring tools and methodologies for the Critical Service Levels and Key Performance Indicators designated.

18.02 If, as of the Cutover Date, there are any Service Levels for which the measuring tools and methodologies have not been agreed upon by the City and the Vendor and included in a Service Level Matrix, and the Vendor fails to propose a measuring tool for such Service Level that is acceptable to the City prior to the date upon which the Vendor shall be responsible for Service Level performance and Service Level Credits due for Service Level Default, such failure shall be deemed a Minimum Service Level Default for such Service Level and such Service Level Default will be deemed to continue until the Vendor proposes and implements such acceptable measuring tool.

18.03 Tools for new Critical Service Levels will be implemented according to the Change Control Procedures.

18.04 If, after the Cutover Date or the implementation of tools for new Critical Service Levels, the Vendor desires to use a different measuring tool for a Critical Service Level, the Vendor shall provide written notice to City, in which event the Parties will reasonably adjust the measurements as necessary to account for any increased or decreased sensitivity in the new measuring tools; provided that, if the Parties cannot agree on the required adjustment, the Vendor will continue to use the measuring tool that had been initially agreed to by the Parties.

18.05 It is not anticipated that changes in the monitoring tools will drive changes in Service Levels; rather, the need to collect and accurately reflect the performance data should drive the development or change in performance monitoring tools.

ARTICLE 19 TIME.

19.01 Unless otherwise set forth herein, all references in this Schedule 13.1 to times shall refer to United States Central Time.

ARTICLE 20 SINGLE INCIDENT/MULTIPLE DEFAULTS.

20.01 If a single incident results in the failure of the Vendor to meet more than one Minimum Service Level, the City shall have the right to select any one of such multiple Minimum Service Level Defaults for which it will be entitled to receive a Service Level Credit. The City shall not be entitled to a Service Level Credit for each of such Minimum Service Level Defaults.